



## Cambodia

### Country Reports on Human Rights Practices - [2002](#)

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Cambodia is a constitutional monarchy. Hun Sen of the Cambodian People's Party (CPP) is Prime Minister, Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) is President of the National Assembly, and Chea Sim of the CPP is President of the Senate. King Norodom Sihanouk is the constitutional monarch and Head of State. Most power lies within the executive branch and, although its influence continues to grow within the coalition structure, the National Assembly does not provide a significant check to executive power. The Khmer Rouge no longer is a political or military threat. The judiciary was not independent; it frequently was subject to legislative and executive influence, and suffered from corruption.

The National Police, an agency of the Ministry of Interior, has primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Security forces nominally are under the control of civilian authorities, but in practice answer to persons within the CPP. The responsiveness of local police and military commanders to civilian authorities varies by location. Members of the security forces committed many documented human rights abuses.

The country has a market economy in which approximately 80 percent of the population of 12.5 million persons engage in subsistence farming, with rice as the principal crop. Economic deprivation and poor health characterized life for most citizens. Annual per capita gross domestic product (GDP) was \$257. Average life expectancy is approximately 50 years. Foreign aid was an important component of national income. The economy grew at an estimated real rate of 6.3 percent during the year. The country has a thriving garment export industry, but has difficulty attracting foreign investment and mobilizing domestic savings to support economic development.

The government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The military forces and police were responsible for both political and nonpolitical killings. There were politically motivated killings by nonsecurity force persons as well. Police participated in or failed to stop lethal mob violence by citizens against criminal suspects. The Government rarely investigated or prosecuted suspects in such killings, and impunity remained a problem. There were credible reports that members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention. National and local government officials often lacked the political will and financial resources to act effectively against members of the security forces suspected of human rights abuses. Through September 20, landmines killed 102 persons and injured 521 persons. Democratic institutions, especially the judiciary, remained weak. The judiciary was subject to influence and interference by the executive branch and was marred by inefficiency and corruption. Politically related crimes rarely were prosecuted. Citizens often appeared without defense counsel and thereby effectively were denied the right to a fair trial. During the year, the Supreme Council of Magistracy disciplined judicial officials for misconduct but did not impose harsh penalties. In August 2001, a law was passed that established a special tribunal to bring Khmer Rouge leaders to justice for genocide and war crimes committed from 1975 through 1979. The Government largely controlled and influenced the content of the electronic broadcast media, especially television. The authorities sometimes attempted to interfere with freedom of assembly. Levels of campaign related violence and intimidation during the February local elections were similar to those in the 1998 national election. The Government inconsistently took action against some perpetrators of campaign violence. Societal discrimination against women remained a problem. Domestic violence against women and abuse of children were common. Discrimination against persons with disabilities was a problem. The ethnic Vietnamese minority continued to face widespread discrimination. There were frequent land disputes, and the Government and courts did not consistently resolve them in a just manner. Although the number of trade unions grew and became more active, antiunion activity also continued. The Government continued to express support for freedom of association, but in practice it did not enforce freedom of association provisions of the Labor Law. Other provisions of the Labor Law also were not enforced effectively. Bonded and forced child labor continued to be a problem in the informal sector of the economy, especially in the commercial sex industry. Domestic and cross-border trafficking in women and children, including for the purpose of prostitution, was a serious problem.

#### RESPECT FOR HUMAN RIGHTS

## Section 1 Respect for the Integrity of the Person, Including Freedom From:

## a. Arbitrary or Unlawful Deprivation of Life

Allegations of politically motivated killings continued before and after the February 8 commune level elections. The U.N. High Commission for Human Rights (UNHCHR) reported that prior to the election, 22 political activists (5 in 2000, 12 in 2001, and 5 this year), including candidates and family members, were killed in 20 separate incidents under suspicious circumstances. Human rights monitoring groups agreed that at least seven of these cases were motivated politically. All of those killed, with the exception of one CPP candidate, were members of the FUNCINPEC Party or the opposition Sam Rainsy Party (SRP). Of these 20 cases prior to the election, the Government made arrests in 14 cases and convictions in 11 cases. UNHCHR reported that following the election, nine additional FUNCINPEC and SRP political activists were killed under suspicious circumstances in eight separate cases. Arrests were made in four of these cases and the accused remained in pretrial detention at year's end. UNHCHR reported that there were serious shortcomings in the police investigations.

In some cases, the authorities failed to execute summonses or search warrants against suspects believed to be protected by the military. Government officials also declared the crimes were not motivated politically before investigations were completed. The investigation of some cases proceeded very slowly. On February 1, a Battambang provincial court sentenced seven persons, including one in absentia, to 15-year prison terms for the November 2001 killing of a SRP candidate. On May 2, a Kampong Cham provincial court sentenced a former militia chief to an 8 year prison term and 2 members of the military, in absentia, to 18 year terms for the November 14 killings of an SRP activist and a FUNCINPEC activist. On July 15, a Svay Rieng provincial court sentenced one policeman and two civilians to 18 years' and 5 years' imprisonment respectively for the January 5 killing of an SRP candidate. On September 7, the press reported three uniformed men shot and killed a SRP activist in Kompong Cham Province. There was no consensus on whether the killing was motivated politically. At year's end, no one had been held accountable. There were numerous allegations of beatings of prisoners in police custody, including one case in Prey Veng Province in July 2001 in which a prisoner died. The Government has not arrested or prosecuted anyone in connection with the killing of three persons by soldiers in Kratie Province in May 2000. Human rights organizations continued to investigate these killings.

On June 6, the UNHCHR issued a report that documented 65 cases of mob assaults and killings from mid-1999 through May of this year. Mob attacks rose to an average of two per month through May, compared to one per month for the second half of 2001. The UNHCHR reported that for the first time police showed a willingness to intervene in such cases. In March a crowd dragged two men away from police custody and beat them to death. At year's end, no one had been held accountable. Also in March, police intervened to save the life of a Phnom Penh student who was beaten severely by a crowd that had been told he was a thief. On May 6, police intervention saved two men from a mob attack who had been accused of stealing a motorbike. On September 16, a Phnom Penh Municipal Court convicted seven persons, including five in absentia, for the December 2001 beating to death of two teenagers wrongly accused of theft. The five who were sentenced in absentia have appealed the verdict but still had not been arrested by year's end. Government prosecutions of those responsible for mob violence were rare.

According to the Cambodian Red Cross, through September 20, 102 persons were killed and 521 persons were injured by landmines deployed by the Khmer Rouge or various government forces during previous conflicts. The number of casualties was similar to those in 2001, but substantially lower than in previous years.

Former Khmer Rouge officials Ta Mok and Kang Kek Iev ("Duch"), who were accused of mass killings and other crimes between 1975 and 1979, remained in jail. Government efforts to bring senior Khmer Rouge officials to justice continued. In August 2001, a law was passed to establish a special tribunal to prosecute Khmer Rouge leaders who committed human rights abuses between 1975 and 1979 (see Section 1.e.).

On September 4, the Supreme Court upheld a 1999 Appeals Court conviction of former Khmer Rouge Commander Nuon Paet who was sentenced to life in prison for his role in a 1994 train ambush that resulted in the deaths of 3 foreigners and at least 13 citizens. On September 6, an Appeals Court reversed the July 2000 acquittal of Chhouk Rin, a former Khmer Rouge Commander who allegedly was involved in the same ambush, and sentenced him to life in prison. On December 23, a Municipal Court sentenced Sam Bith, a third Khmer Rouge Commander implicated in the attack, to life in prison.

On February 18, a municipal court tried and convicted 19 persons to 5 to 20 years on charges of terrorism or conspiracy and membership in the armed group the Cambodian Freedom Fighters (CFF). In March a Battambang court tried and convicted 18 members to sentences of 7 to 17 years for their roles in the November 2000 CFF attack in Phnom Penh in which 8 persons were killed and 14 other persons were injured. In April a Siem Reap provincial court tried 12 alleged CFF members for their roles in the attack; 8 were convicted to sentences of between 1 and 10 years and 2 were acquitted and released. In June 2001, a municipal court tried 30 alleged CFF members, including 2 in absentia, and convicted them to sentences of 3 years to life. In November 2001, a municipal court tried and convicted 26 alleged CFF members to 3 to 15 years in prison and acquitted 2 others in connection with the November 2000 incident. Human rights groups and other observers criticized the Government and the courts for the way they conducted their investigations and trials (see Section 1.d.). Some of those convicted have appealed but there were no developments in their cases by year's end.

## b. Disappearance

There were no confirmed reports of politically motivated disappearances, but local NGOs investigated cases in several provinces in which individuals allegedly disappeared after having been held in police detention. The UNHCHR and a local NGO also continued to investigate the May 2000 disappearance of five persons from various parts of Kratie Province after they were detained by security officials. These disappearances were unrelated to the May 2000 disappearance of 23 persons. All five remained missing, and government and NGO efforts to establish their whereabouts continued at year's end.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem throughout the country. There were credible reports that both military police and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Police and security force perpetrators of torture and abuse frequently were protected from prosecution or disciplinary action by local government authorities, despite some central government efforts to curtail or eliminate violations of prisoners' rights and to address problems of accountability.

During the year, the Ministry of Interior was slow to investigate allegations by the UNHCHR of torture and severe abuse of individuals in detention in various parts of the country. During the year, three police officers were charged with voluntary manslaughter for the July 2001 beating to death of a prisoner in Prey Veng Province. In August a Kampong Cham provincial court acquitted five prison guards who were charged for alleged mistreatment of prisoners following a 1999 attempted escape. However, the judge, in an apparent acknowledgement of the guards' wrongdoing, recommended that the Ministry of Interior impose an administrative sanction against the guards. Also in August, a local NGO reported that of 2,324 inmates surveyed, 11.7 percent claimed they were tortured in police custody while another 1.2 percent claimed they were tortured in prison.

Government officials and security officials were complicit in trafficking in both women and children (see Sections 5 and 6.f).

The Ministry of Interior's Prisons Department is responsible for both pretrial detainees and convicted prisoners held inside prisons. During the year, prison conditions remained harsh, and government efforts to improve them and to implement new regulations were hampered by lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. A local NGO, which monitors 20 of the country's 25 prisons, noted that the population of those prisons decreased by 10 percent during the year. However, an August report by the same NGO noted that at one prison in Kampong Cham prisoners were allotted 0.93 square meters of space. In most prisons, there was no separation of adult prisoners and juveniles, or of persons convicted of serious crimes and persons detained for minor offenses. There was inadequate separation of male and female prisoners. In some prisons, after escape attempts, use of shackles and the practice of holding prisoners in small, dark cells continued. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, which exacerbated malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials in order to be allowed to provide assistance.

The Government continued to allow international and domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGOs reported that on occasion cooperation from local authorities was limited (see Section 4). The Ministry of Interior continued to require lawyers, human rights monitors, and other visitors to obtain letters of permission from the Ministry prior to visiting prisoners. The Ministry withheld such permission in some cases, particularly for individuals in detention in connection with the crackdown on the CFF (see Section 1.d.).

#### Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. A Penal Code drafted by the U.N. Transitional Authority in Cambodia (UNTAC) in 1992 remained in effect, as does the 1993 Criminal Procedure Law. The Criminal Procedure Law provides protection for criminal suspects; however, in practice the Government sometimes ignored its provisions.

A number of the defendants were arrested without warrants and were held longer than the 6 month maximum period of detention permitted by the law. Starting in September 2001, the Government initiated a crackdown on the CFF and arrested over 100 suspects, including dozens without arrest warrants. The Government held some suspects incommunicado and denied them appropriate access to lawyers. Subsequently, many were tried and convicted on the basis of flimsy evidence such as the appearance of their name on a CFF membership list.

Although lengthy detention without charge is illegal, suspects often were held by authorities for long periods before being charged or brought to trial or released. According to the UNHCHR, such prolonged detention largely was a result of a growing prison population and the limited capacity of the court system. Accused persons legally are entitled to a lawyer; however, in practice they often had limited access to legal representation. Prisoners routinely were held for several days before gaining access to a lawyer or family members, although the legal limit is 48 hours. Although there is a bail system, many prisoners, particularly those without legal representation, often had no opportunity to seek release on bail. During the year, one NGO reported that there were 140 complaints of pre-trial detention that lasted longer than the prescribed 6 months.

The Constitution prohibits forced exile, and in practice the Government did not use it. In August one FUNCINPEC member resigned his seat in Parliament and claimed to be in self-imposed exile after certain government officials threatened to arrest him for his involvement in an association that advocated the creation, by force if necessary, of an autonomous ethnic Khmer State in Vietnam.

#### Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the Government did not respect this provision in practice. The courts were subject to influence and interference by the executive, and there was widespread corruption among judges, virtually none of whom received a living wage.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and in practice the Government did not ensure due process. UNHCHR has on a number of occasions printed and provided copies of all of the country's laws to all judges. Judges and prosecutors, however, often have no legal training. Citizens often effectively were denied a fair trial in jurisdictions without regular access to defense lawyers or international judicial assistance programs. The Judicial Reform Council established in 2000 has made no significant progress in fulfilling its mandate to develop and implement judicial reform measures. On June 19, the Government established a second legal and judicial reform council amid criticisms that its co-chairs, a Cabinet Minister and the Supreme Court President, lacked sufficient independence. The Supreme Council of the Magistracy continued to discipline judicial officials for misconduct but did not impose harsh penalties. In June 2001, the Supreme Council of the Magistracy nominated to the Appeals Court a former court president and a former prosecutor who had been suspended from their positions and investigated for accepting bribes in 1999. No information about the investigation was released. Legal observers charged that the Supreme Council of the Magistracy was subject to political influence, and did not protect effectively the independence of the judiciary.

Court delays or corrupt practices often allowed those accused of crimes to escape prosecution, leading to impunity for some government officials or members of their families who committed crimes. Although the courts prosecuted some members of the security forces for human rights abuses, impunity for those who committed human rights abuses remained a problem. With some exceptions, national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released by the courts or through extrajudicial processes. In June the Prime Minister allegedly ordered a government official with key responsibilities in ongoing judicial reform efforts to drop inappropriate criminal charges against his former foreign business partner in a civil dispute involving allegations of breach of contract (see Section 1.f.).

In March a Ratanakiri provincial court ruled in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of the ethnic hill tribes apparently had been tricked into giving away (see Sections 1.f. and 5).

In January the National Election Commission (NEC) reaffirmed its requirement that commune election committees resolve local election-related disputes (see Section 3). As a consequence, many violations of the Election Law, some very serious, were not punished sufficiently. The courts and police often pressured crime victims to accept small cash settlements from the accused instead of seeking prosecution. When a case was tried, a judge sometimes determined the verdict before the case was heard, often on the basis of a bribe. On February 18, a Ratanakiri provincial court sentenced four men to 4 months in prison in spite of finding them guilty of three counts of premeditated killing. Sworn, written statements from witnesses and the accused usually were the extent of evidence presented in trials. Statements by the accused sometimes were coerced through beatings or threats from investigation officials, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign (see Section 1.c.). In cases involving military personnel, military officers often exerted pressure on judges to have the defendant released without trial.

The court system consists of lower courts, an appeals court, and a Supreme Court. The Constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both of these bodies was viewed widely as biased in favor of the CPP.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials typically were perfunctory, and extensive cross-examination usually did not take place. In 1998 the introduction of newly trained lawyers, many of whom received supplemental training by NGOs, resulted in significant improvements for those defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers in all parts of the country. Persons without the means to secure defense counsel often effectively were denied the right to a fair trial.

Defendants are entitled by law to the presumption of innocence and to the right of appeal. However, because of pervasive corruption, defendants often were expected to bribe the judge for a favorable verdict, thereby effectively eliminating the presumption of innocence. Citizens' rights to appeal sometimes were limited by the lack of transportation and other logistical

difficulties in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant. Lawyers also noted that in 2001 and throughout the year, police and prison officials, with apparent support from government officials, began to deny them the right to meet prisoners in private or for adequate lengths of time, in violation of the law (see Section 1.c.). In December 2001, an executive decree appointed a single individual as the country's sole notary public, and, by extension, legal arbitrator of everything from documents to land disputes.

There is a separate military court system. The military court system suffered from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts often was ignored in practice; several civilian persons arrested for crimes that appeared to have no connection with military offenses were detained for trial by the military court.

In August 2001, a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through to 1979. The Government had sought assistance and cooperation from the United Nations (U.N.) since 1997, as well as financial assistance from foreign donors, to make the tribunal operational. In February the U.N. announced that it would no longer participate in negotiations with the country to establish a "mixed" tribunal, because the U.N. was not confident it could reach an agreement to establish a court that was independent, impartial, and objective. In early July, the Government announced that it had sought to revive negotiations. On August 20, the U.N. spokesman announced that the U.N. Secretariat would resume negotiations on a Khmer Rouge Tribunal if it were to receive a "clear mandate" from either the U.N. Security Council or the U.N. General Assembly. On December 19, the U.N. General Assembly approved a resolution calling upon the Secretary General to resume negotiations to conclude an agreement with the Government to establish Extraordinary Chambers to try Khmer Rouge leaders. On December 24, the Government announced that it had accepted an invitation from the U.N. Secretary General to conduct exploratory talks to prepare for resumption of negotiations on the court.

In March and April, human rights groups criticized the convictions of 29 alleged members of the CFF (see Section 1.a.). Although some of the defendants freely admitted involvement in an armed attempt to overthrow the Government, observers raised valid criticisms about the lack of thorough investigation or meaningful cross-examination, and the judge's broad use of discretion in accepting or rejecting evidence.

There was cooperation among the Government, foreign government donors, and NGOs to improve the legal system, but progress remained slow.

There were no reports of political prisoners.

#### Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the privacy of residences and correspondence and prohibits illegal searches; however, the police routinely conducted searches and seizures without warrants. There were no reports that the Government monitored private electronic communications. The Government continued to work on improving the land titling system and to prepare implementing regulations for a July 2001 law clarifying ownership and recognizing various forms of communal property arrangements, including for indigenous minorities.

Citizens were free to live where they wished; however, there were continued frequent reports of land disputes between residents, local authorities, businesspersons, and military officials. Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Several provinces created land dispute settlement committees; representatives of local NGOs and of the military forces frequently attended committee meetings. Members of the committees often had apparent conflicts of interest, and observers criticized dispute resolution as inconsistent and not transparent.

One domestic NGO investigated 63 land disputes involving government officials that affected 2,746 families during the year. On March 27, after a Ratanakiri provincial court ruled in March 2001 in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of ethnic hill tribes said belonged to them, King Sihanouk and Prime Minister Hun Sen effectively overruled the court and settled the land dispute. The settlement awarded the land title to the hill tribes members and \$35,000 (136,500,000 riel) to the General for the amount he claimed he paid local Ratanakiri officials to arrange transactions giving him ownership of the land (see Sections 1.e. and 5).

#### Section 2 Respect for Civil Liberties, Including:

##### Freedom of Speech and Press

The Constitution provides for freedom of expression, press, and publication, and the Government generally respected these rights in practice; however, there continued to be some problems. The Constitution implicitly limits free speech by requiring that it does not affect adversely public security. The Constitution also declares that the King is "inviolable." The Press Law provides journalists with a number of rights, including a prohibition on prepublication censorship and protection from imprisonment for

expressing opinions. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. There were no reports that print journalists practiced self-censorship. There were a large number of news items critical of the Government, which included frequent, highly personal criticism of the Prime Minister, the President of the National Assembly, and other senior officials.

In November 2000, the Ministry of Information produced a draft regulation that specified professional requirements for new newspaper and magazine publishers, and introduced a mandatory licensing system requiring that newspapers renew their licenses annually and that magazines renew their licenses every 2 years. Some journalists' organizations viewed the draft regulation as an attempt to increase government control over the media. The Ministry was engaged in consultations with these organizations, and had not implemented the regulation by year's end.

Although limited in circulation, newspapers were a primary source of news and expression of political opinion. All major political parties had reasonable and regular access to the print media. In general newspapers were aligned politically. The law permits newspapers to receive financial support from political parties, and some newspapers did receive such support from FUNCINPEC and the SRP. There were an estimated 16 Khmer language newspapers published regularly, approximately the same number as in 2001. Of these, 11 were considered to be progovernment, 4 were considered to support the opposition Sam Rainsy Party (SRP), 1 was considered to support the FUNCINPEC Party, and 1 was considered to be antimonarchy. In addition, there was one French-language daily, one English-language daily, and two other English newspapers published regularly. Many of the Khmer-language newspapers frequently published articles translated from the English language newspapers. Although the two largest circulation newspapers were considered progovernment, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers. There was some government intimidation or retribution against local Khmer-language newspapers for reports that were critical of the Government. In April a municipal court ordered a newspaper to pay fines for an article allegedly defaming the National Assembly President. Journalist associations and NGOs publicly criticized these actions. In July the publisher of a newspaper was detained by the Ministry of Interior for 10 hours and questioned about his news sources. In August a newspaper was closed for 30 days after publishing a story critical of the President of the National Assembly. In September a newspaper editor and reporter were detained 2 days for publishing articles critical of the national police.

In August 2001, a municipal judge filed a libel case against an opposition-affiliated newspaper for publishing an article alleging that the judge accepted kickbacks in a property dispute case. The case was settled out of court. In September 2001, the Minister of Foreign Affairs and International Cooperation won a defamation suit against three journalists from an English-language newspaper for an article containing a quote suggesting that during the 1975-1979 Khmer Rouge regime the Minister played a role in sending prisoners to be interrogated and executed from the prison and reeducation camp where he was the head inmate. The court proceedings were marred by irregularities. The judge did not consider relevant evidence offered by the defendants, and collected evidence of her own in violation of her mandate. The judge denied the defendants' request to be tried under the 1995 Press Law rather than the 1991 transitional UNTAC Code, but then ordered them to pay damages to the Foreign Minister and the state under both laws. In November 2001, the journalists appealed the decision. By year's end, there had been no further developments in the case.

The Government, the military forces, and the political parties continued to dominate the broadcast media and to influence their content. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The opposition party in past years was unable to obtain a broadcast license and, during 2001, briefly broadcasted radio programs from a site in a neighboring country, but subsequently suspended broadcasts for technical reasons. Voice of America and Radio Free Asia made daily broadcasts through lease arrangements with the country's only independent radio station. Broadcast journalists reportedly practiced self-censorship to enhance prospects for keeping their broadcast license. Television stations largely ignored a May government order to broadcast only national language programs during peak viewing hours.

There were six television stations, all controlled or strongly influenced by the Government. Government control severely limited the content of television broadcasting. At the initiative of the President of the National Assembly, the Ministry of Information's television station did broadcast live telecasts of the National Assembly's sessions; in several instances, these broadcasts were censored. An April UNHCHR report asserted that the Government failed to ensure that all political parties and candidates enjoyed freedom of expression and equal access to the media in the campaign leading up to the commune elections (see Section 3). National radio and television stations regularly broadcasted some human rights, social action, public health, and civil society programming produced by domestic NGOs.

In August 2001, the Government issued an order banning the sale of and threatening to confiscate a book published by the SRP entitled *Light of Justice*. A government spokesman described it as "promoting instability" but never specified what law the

publication violated. The Government never implemented its confiscation threat. The SRP removed the book from circulation and filed a lawsuit against the Government, which was not settled by year's end.

Internet service, which was available widely in larger towns, was unregulated.

Academic freedom was respected.

#### Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, but the Government did not fully respect this right in practice. The Government requires that a permit be obtained in advance of a march or demonstration. The Government often did not issue a requested permit or took no action on a permit application; however, these actions had no practical effect because demonstrations proceeded anyway.

During the year, numerous groups assembled peacefully, including workers and teachers who protested working conditions or wages, political opposition activists who supported various causes, students who protested border encroachments and the visit of Vietnamese, Chinese, and Thai leaders to the country, and various groups which protested land seizures. On occasion counter-demonstrations by other citizens who supported the Government disrupted the protests, which sometimes resulted in clashes that caused minor injuries to participants. Supporters of both the ruling and opposition parties took part in rallies and street parades throughout the country during the commune election campaigning period. However, the opposition party alleged that local authorities obstructed its campaigning in several locations (see Section 3).

On December 5, a crowd of approximately 150 villagers visiting Phnom Penh gathered in front of the offices of the Department of Forestry and Wildlife (DFW) and demanded information about proposed forestry concession management plans. At dusk a group of police aggressively drove the crowd away from the DFW. There were credible reports that the police used electrified batons to disperse the crowd and that several villagers sustained injuries. One protester died later in the evening of a heart attack, but no link between the incident and his death was established. The independent monitor of the country's forestry sector, Global Witness, filmed the incident, but was not involved directly. The Government subsequently decided to terminate Global Witness' role as the official forestry monitor. In the past Global Witness drew criticism from the Government for allegedly overstepping its mandate of monitoring forest crimes to advocating general reform of the forestry sector.

Throughout the year, there were complaints from various organizations that local authorities demanded that they apply for permission to hold meetings and other events, despite the fact that there was no legal basis for such requirements. For example, in June 2001, the Government forbade a private conference on border issues planned by a student group in conjunction with an organization of expatriate Cambodians at a Phnom Penh hotel. The Government never explained the legal basis for its action, but conference organizers canceled the event after the hotel refused to allow the conference on its premises.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. However, the Government did not enforce effectively the freedom of association provisions of the Labor Law (see Section 6.a.). In October 2001, the Government adopted a standard Memorandum of Understanding for NGOs, which eliminated provisions from an earlier draft NGO law that the NGO community opposed.

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. However, there were several documented cases of harassment of FUNCINPEC and SRP activists and candidates in connection with preparations for the scheduled commune level elections (see Section 3).

Membership in the Khmer Rouge, which previously conducted an armed insurgency against the Government, is illegal, as is membership in any armed group.

#### Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion and over 95 percent of the population is Buddhist. Most of the remaining population is made up of ethnic Cham Muslims, who were well integrated into society.

The law requires all religious groups to submit applications to the Ministry of Cults and Religious Affairs in order to construct places of worship and to conduct religious activities. Religious groups did not encounter significant difficulties in obtaining approvals for construction of places of worship, but some Muslim and Christian groups reported delays by some local officials in acknowledging that official permission had been granted to conduct religious meetings in homes. Such religious meetings took place unimpeded despite delay or inaction at the local level, and no significant constraints on religious assembly were reported. In August the Government deported two Falun Gong members listed as United Nations High Commissioner for Refugees

(UNHCR) persons of concern to China (see Section 2.d.). Also in August, the Government announced that it would not permit the Dalai Lama to attend an upcoming Third World Buddhism Conference in the country.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution and law provide for these rights and the Government generally respected them in practice. The Government does not restrict domestic or international travel, although the presence of land mines and bandits made travel in some areas of the country dangerous (see Section 1.a.).

There were no reports of persecution or discrimination against refugees who returned from abroad. On December 31, 2001, the UNHCR program which assisted in the resettlement of refugees who returned from Thailand, formally was terminated. There was no new resettlement of internally displaced persons (IDPs) during the year. IDPs who resettled in previous years were able to return to their original places of origin, except where land mines were a problem.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice there were cases where persons were deported. During the year, the country granted asylum to persons of various nationalities. The Government also allowed noncitizens to apply to the UNHCR for refugee status and for third country resettlement. On November 23, police tried several times to detain a group of 20 Montagnards in Phnom Penh who were under UNHCR protection. An all night negotiation took place to keep the group from being arrested. In late December, they moved to the site where other Montagnards were awaiting resettlement. There were no further instances of police harassment though the end of the year, and 20 were accepted for resettlement to a third country. The Government authorized resettlement processing for approximately 900 Montagnards who were living in 2 UNHCR camps in Ratanakiri and Mondolkiri Provinces. To ensure their safety, these refugees were moved by UNHCR from the border provinces down to Phnom Penh. During the year, all 583 cases (905 persons) were interviewed and provided refugee status. By the end of the year, approximately 800 Montagnards departed Phnom Penh for third country repatriation.

In March 2001, the Government provided asylum in Ratanakiri and Mondolkiri Provinces for arriving Montagnards. However, in May authorities pushed back approximately 300 asylum seeking Montagnards, in apparent violation of the 1951 U.N. Convention, claiming that they were illegal aliens. In December 2001, authorities intercepted and returned 167 newly arrived Montagnard asylum seekers to Vietnam. NGOs and other organizations continued to claim that groups of Montagnards remained in hiding along the border of Vietnam waiting for an opportunity to seek asylum in the country.

The UNHCR was given permission to establish and monitor camps in both provinces. Although the UNHCR reached an agreement with the Government and with the Government of Vietnam to facilitate voluntary repatriation, the program quickly collapsed. In March the Government deported 98 new Montagnard arrivals back to Vietnam. In July a Vietnamese monk, who was registered with the UNHCR as a person of concern, disappeared from Phnom Penh. Credible reports suggested that either he was kidnaped by Vietnamese agents or that he was deported by government authorities. In August the Government deported to China two practitioners of Falun Gong (see Section 2.c.). The couple had been living and working in the country since 1998 and were accorded "person of concern" (refugee) status by the UNHCR in May. The UNHCR was not notified of the deportation until after the fact, in violation of the country's agreement with the U.N.

After opposing repatriation of deportable Cambodian nationals for many years, the Government signed an MOU with the United States in March to facilitate their return. The 36 persons who subsequently were repatriated in four separate groups were detained up to several weeks upon their arrival and there were reports that some were forced to pay bribes during this detention. By year's end, these 36 deportees all were released, and the Government subsequently has respected the rights of these individuals and their efforts to integrate themselves into society.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully. The coalition Government formed in late 1998 between the CPP and the FUNCINPEC, the two parties that won the largest number of votes and National Assembly seats in the 1998 election, established relative political stability. The coalition agreement provided for approximately equal power sharing between the parties, with Hun Sen of the CPP as Prime Minister and Prince Norodom Ranariddh of FUNCINPEC as President of the National Assembly. However, in practice the CPP has been the dominant partner. The coalition agreement also provided for the creation of a Senate, which was formed in March 1999 with Chea Sim of the CPP as President. The Senate's function is to review and to provide advice on the laws passed by the National Assembly; the National Assembly retains final authority over whether to modify legislation based on the Senate's recommendations. In practice the Senate's role largely was perfunctory, while the National Assembly was a more credible forum for national debate.

Although growing in influence, the legislature remained weak in comparison to the executive branch. The coalition Government appointed the 24 provincial and municipal governors and their deputies, as well as district officials, all of whom were divided between the CPP and FUNCINPEC parties. Suffrage is universal and voluntary for all citizens over the age of 18. Most citizens participated in national elections in 1993 and 1998.



In February the first ever national commune level elections were held. Over 83 percent of eligible voters registered to vote. More than 76,000 candidates from 8 parties competed and more than 1 candidate was registered in 1,608 of the country's 1,621 communes. The election results broke the CPP's 23 year monopoly control of local governance. The CPP won 7,703 council members seats nationwide, FUNCINPEC won 2,211 member seats and the SRP won 1,346 member seats. The CPP commune chiefs remained in place in 99 percent of the 1,621 communes; however, power was shared with other parties in all but 148 communes. At year's end, an interministerial body supervised by the Ministry of Interior had not developed regulations to implement the Commune Administration Law to describe the power, duties, and functions of the councils.

The levels of election-related violence and intimidation associated with the February local elections were similar to those in the 1998 national election (see Section 2.b.). During the campaign period and throughout the year, a total of 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were motivated politically (see Section 1.a). The Government took action against many alleged perpetrators of killings, but addressed other misconduct inconsistently.

There were more than 200 reported cases of intimidation (vandalism, forced oath taking to the CPP, collection of voter registration cards by local authorities, and death threats), against activists and candidates running against the CPP. The NEC did not use its powers to sanction those involved in voter intimidation and vote buying. According to electoral monitoring organizations, each of the three main parties allegedly was involved in vote buying, although the CPP was cited in the majority of cases. On preelection night, there were reports of illegal gift giving in every province by all major parties, and voter coercion by local CPP officials.

The UNHCHR uncovered no evidence of a centrally organized campaign of violence or intimidation; most cases appeared to be the work of local officials. However, UNHCHR also reported that police investigations of such incidents and subsequent judicial processes were slow and showed serious shortcomings. The NEC did not carry out effectively its legal mandate to investigate election violations and to punish the perpetrators, nor did it permit equal access to the media (see Sections 1.e. and 2.a.). These were the first elections the country organized without substantial foreign assistance, and preparations were marked by poor dissemination of information and other logistical and administrative problems. Some political parties and election observers claimed that the authorities did not do enough to ensure that all voters who wished to vote could register.

Media access for opposition parties was more restricted than in the 1998 national elections (see Section 2.a). The NEC did not allow six local level candidate debates to be broadcasted on national television, although one debate was broadcasted on a national radio station. In addition, the NEC reversed its decision to allow broadcasts of 15 prescreened, national-level, election roundtable debates organized by nongovernmental organizations during the campaign period. Voters' choices on election day were limited by their lack of access to broadcast political discussion. The Committee for Free and Fair Elections (COMFREL) reported that the activities of the Government and the CPP dominated news coverage both before and during the campaign period, while negligible exposure was given to opposition parties.

Traditional cultural practices inhibited the role of women in Government. However, women took an active part in the 1998 national election and registered for the February elections at approximately the same rate as men. There were 13 women among the 122 members of the National Assembly, 8 women among the 61 members of the Senate, and 2 female Ministers and 3 female State Secretaries in the Cabinet. After February's local elections, women held 933 (8.3 percent) of the 11,261 commune council seats. The country's central bank was headed by a woman.

There were several members of ethnic and religious minorities in the Cabinet and the National Assembly (see Section 5).

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The large domestic and international human rights community remained active and engaged in diverse activities. The UNHCHR and numerous other human rights organizations conducted monitoring activities and human rights training for provincial officials, military officers, villagers, the legal community, and other groups. These organizations operated relatively freely throughout the country, investigating and publicizing their findings on human rights cases. There were approximately 40 NGOs involved in human rights activities, although only a small portion of them actively were involved in organizing training programs or investigating abuses. The Government generally cooperated with human rights workers in performing their investigations; however, during the year, there were several reports of poor cooperation or intimidation by local authorities throughout the country.

In March the Government and the UNHCHR agreed to a Memorandum of Understanding which extended the UNHCHR's activities in the country for 2 more years. The UNHCHR maintained its headquarters in Phnom Penh and had 2 regional offices in Battambang and Kampong Cham. The UNHCHR visited the country in August, and the U.N. Special Representative for Human Rights visited two times during the year. Both Representatives met with government officials at all levels, as well as with representatives of political parties and NGOs.

During the year, the Government continued to deny lawyers and human rights groups permission to see prisoners, thus inhibiting the ability of lawyers to defend clients and the ability of human rights groups to monitor prison conditions (see Section 1.c.).

The Cambodian Human Rights Committee, which the Government established in 1998, largely was inactive throughout the year, and its activities were not credible.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views. Although the Government did not engage actively in discrimination, it sometimes failed to protect these rights in practice.

#### Women

Domestic and international NGOs reported that violence against women, including domestic violence and rape, was common. Although comprehensive statistics were not available, one local NGO reported 244 cases of domestic violence, 174 cases of rape, and 74 cases of trafficking in persons during the year. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints.

The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape", "causing injury" or "indecent assault," but women's groups reported that such charges were rare.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.). Although the Government devoted greater attention to the problem of trafficking during the year and initiated several prosecutions, it has not enforced effectively a 1996 law against the exploitation and sale of human beings. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it continued to flourish. A survey by a local human rights NGO reported there were approximately 50,000 prostitutes in the country and that an estimated 60 percent of women and girls either were forced to work as prostitutes or were deceived into prostitution. Sex tourism was also a problem.

The Labor Law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reports that in the industrial sector it was rare. Sexual harassment was not known to be a problem in other sectors of the economy.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights with men, the same status to bring divorce proceedings, and equal access to education and some jobs. However, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas.

According to NGO reports, women make up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often were concentrated in low-paying jobs in these sectors and largely were excluded from management positions. There were a large number of women's NGOs that provided training for poor women and widows and addressed social problems such as spousal abuse, prostitution, and trafficking. A media center produced and broadcasted programming on women's issues. NGOs provided shelters for women in crisis.

#### Children

The Constitution provides for children's rights, and ensures that the welfare of children is a specific goal of the Government. The Government relied on international aid to fund most social welfare programs targeted at children, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free but not compulsory through grade nine; many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. Despite an extensive government school construction program, schools were overcrowded, lacked sufficient equipment, and often provided only a few years of education, especially in rural areas. Less than 5 percent of primary school teachers completed high school, and teachers' salaries were irregular and inadequate to support a decent standard of living, leading to demands for unofficial payments directly from parents, which the poorest families could not afford. The Government did not deny girls equal access to education; however, in practice, families with limited resources often gave priority to educating boys. In many areas, schools were remote, and transportation was a major problem. This particularly affected girls because of fears for their safety in traveling between their homes and schools.

Children frequently suffered from malnutrition and the inadequacy of the health care system. Infant mortality was reported most recently at 95 per thousand, and 12.5 percent of children did not live to the age of 5 years. Child mortality from preventable diseases was high.

Child abuse was believed to be common, although there were no statistics available. Poverty and domestic violence often drove children to live on the streets; domestic NGOs estimated there were more than 10,000 street children in Phnom Penh alone,

who were easy targets for sexual abuse and exploitation. Although sexual intercourse with a person under the age of 15 is illegal, child prostitution and trafficking in children were common (see Section 6.f.). In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (see Section 6.f.). During the year, the Government prosecuted at least six cases in which foreigners were charged with pornography violations or pedophilia.

The illegal purchase and sale of infants and children for prostitution and adoption was a serious problem. During the year, raids on brothels rescued several underage girls who were trafficked to the country for prostitution (see Section 6.f.). In 2001 and during the year, there were several documented cases in which individuals or organizations purchased infants or children from their natural parents, created fraudulent paper trails to document the children as orphans, and then earned substantial profits from fees or donations from unwitting adoptive families, including foreign families. Some of these children ended up being exploited. In some of these cases, the perpetrators encouraged women to give up their children under false pretenses, for example, by promising to care for the children temporarily but then refusing to return them. During 2001 a court charged at least seven persons in two separate cases involving orphans for adoption. The court subsequently dropped the charges against all seven individuals, following what human rights workers believed were inadequate court investigations. In one of the cases, the court's decision to drop charges was appealed.

Child labor was a problem in the informal sector of the economy (see Sections 6.c. and 6.d.).

#### Persons with Disabilities

The Government does not require that buildings or government services be accessible to persons with disabilities. According to the Government, approximately 1 in 219 citizens was missing at least one limb. This statistic reflects the continuing effects of landmines. Programs administered by various NGOs have brought about substantial improvements in the treatment and rehabilitation of persons who have lost limbs. However, persons who have lost limbs face considerable societal discrimination, particularly in obtaining skilled employment.

#### National/Racial/Ethnic Minorities

Citizens of Chinese and Vietnamese ethnicity constitute the largest ethnic minorities. Ethnic Chinese citizens were accepted in society. However, animosity toward ethnic Vietnamese, who were seen as a threat to the nation and culture, continued. The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to "Khmer people." During the year, student groups continued to make strong anti-Vietnamese statements; they complained of political control, border encroachments, and other problems for which they held ethnic Vietnamese persons within the country at least partially responsible. In several parts of the country, the opposition party exploited anti-Vietnamese sentiment and effectively disenfranchised thousands of ethnic Vietnamese citizens by successfully challenging their voter registration rights during local elections.

In March 2001, a provincial judge ruled against ethnic hill tribe villagers in a land dispute. Ethnic bias did not appear to be a factor in the judgment, but political influence was seen as important in this affair (see Sections 1.e and 1.f.).

#### Section 6 Worker Rights

##### The Right of Association

The Labor Law provides workers with the right to form professional organizations of their own choosing without prior authorization, and all workers are free to join the trade union of their choice; however, the government's enforcement of these rights was inconsistent. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY) has accepted the charter of at least one union that requires workers to obtain permission before they may withdraw. The Labor Law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries are not subject fully to the law, but are free to form unions.

Most workers were subsistence rice farmers. Only a small fraction (estimated at less than 1 percent) of the labor force were unionized, and the trade union movement was still in its infancy and was very weak. Unions were concentrated in the garment and footwear industries, where approximately 25 to 30 percent of the 160,000 to 170,000 workers were union members. Although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. The Labor Law requires unions and employer organizations to file a charter and list of officers with the MOSALVY. The MOSALVY registered 322 factory unions and 10 national labor federations since the Labor Law went into effect, including 77 unions and 1 federation during the year. Labor unions continued to expand outside the garment sector as well. In July the Ministry of Interior recognized the country's first public-sector union, the Cambodia Independent Teachers Association, which registered as an "association." Regulations issued in 2000 to simplify union registration procedures were effective. Unlike in previous years, there were no complaints that the Government failed to register unions or labor federations, although some unions and federations complained of unnecessary delays and costs. Although all unions collect dues from members, none has been able to operate without outside sources of support. None of the unions has the capacity to negotiate with management as equals.

Five registered labor federations have historical ties to the Government or CPP-affiliated individuals within the Government. Two major labor federations and several unaffiliated factory unions were independent. There was credible evidence of employer involvement in some labor unions. In some factories management appeared to have established their own unions, supported pro-management unions, or had bought off other union leaders. The Cambodian Labor Solidarity Organization (CLSO), a local NGO headed by an advisor to the Minister of Labor, claimed to protect workers and the economy from disruptive union activists and strikes. However, the presence of CLSO at labor disputes often coincided with the presence of hired thugs who intimidated and even became violent with union leaders, union members, and other workers.

The government's enforcement of provisions that protect the right of association was poor. The government's enforcement efforts were hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. Unions also suffered from a lack of resources, training, and experience. There were credible complaints about anti-union harassment by employers, including the dismissal of union leaders, in more than 20 garment factories and other enterprises during the year. In September an appeals court overturned a March lower court order that reinstated two garment factory union leaders who were dismissed in 2000. In July a provincial court arrested two union leaders after taking their depositions on a worker riot and destruction of property incident which occurred at their factory in 2001. An interministerial committee investigating the incident previously had exonerated the two from any wrongdoing. After intervention from the Minister of Labor, the two leaders were released on bail in early December. However, their case was still pending and they had not been reinstated to their positions at the factory by year's end.

The Government never has prosecuted or punished an employer for antiunion activity. The MOSALVY often decided in favor of employees, but rarely used its legal authority to penalize employers who defied its orders. The MOSALVY often advised employees in such situations to sue in court, which labor unions claimed was unnecessary, costly, and ineffective. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce labor law provisions requiring their reinstatement.

In January 2001, the ILO began a program to monitor working conditions in the garment industry. However, senior officials, including the Deputy Prime Minister and the Minister of Commerce, made public statements throughout the year dismissing the labor movement as being made up of political agitators intent on sabotaging the economy.

Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

#### The Right to Organize and Bargain Collectively

The Labor Law provides for the right to organize and bargain collectively; however, the government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, for whom wages were set by the Government.

Since passage of the Labor Law in 1997, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The Labor Law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union to the company management and to sign collective bargaining agreements. However, in practice most factories elected shop stewards before a union was present in the enterprise; thus, many unions had no legally enforceable right to negotiate with management in situations in which there were nonunion shop stewards. In addition, the law specifically protects elected shop stewards from dismissal without permission from the MOSALVY, but grants no such protection to elected union leaders. In November 2000, MOSALVY issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise. However, these protections for union leaders did not prove effective (see Section 6.a.).

There were only 10 collective bargaining agreements registered with the Government, and these did not meet international standards. In addition to difficulties in defining the bargaining unit, collective bargaining was inhibited by the weak capacity and inexperience of unions. In November 2001, the Government issued a regulation establishing procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The new regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. Nine unions applied with the MOSALVY to establish their right to represent workers for purposes of collective bargaining; however, none were granted this status, and many complained of unnecessary bureaucratic delays.

The Labor Law provides for the right to strike and protects strikers from reprisal. There were 35 strikes through September 15, the vast majority of which took place without the 7 day notice as required by law. The Government allowed all strikes and demonstrations, including some in which demonstrators caused property damage. In June 2001, the authorities arrested several union members for alleged involvement in violent labor demonstrations at a garment factory, fined them, and then released them several days later (see Section 2.b.). However, in general, police intervention was minimal and restrained, even in cases in which striking workers caused property damage. In spite of the provisions in the law protecting strikers from reprisals, there were credible reports of workers being dismissed on spurious grounds after organizing or participating in strikes. In some cases, strikers were pressured by employers to accept compensation and to leave their employment.

There were no export processing zones.

### Prohibition of Forced or Bonded Labor

The Labor Law prohibits forced or bonded labor, including forced labor by children; however, the Government did not enforce its provisions adequately. Involuntary overtime remained widespread. Workers faced fines, dismissal, or loss of premium pay if they refused to work overtime.

During the year, government officials took action to rescue women and children from prostitution, but did not do so consistently (see Section 6.f.). There also were reports of isolated cases of forced labor by domestic servants.

### Status of Child Labor Practices and Minimum Age for Employment

The Government has adopted laws to protect children from exploitation in the workplace. In March the Government ratified the Optional Protocol to the U.N. Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography. In November 2001, the Government signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against Transnational Crime.

The Labor Law establishes 15 years as the minimum age for employment, and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 years of age to engage in "light work" that is not hazardous to their health and that does not affect school attendance. A tripartite Labor Advisory Committee is responsible for defining what constitutes work that is hazardous to the health, safety, and morality of adolescents, as well as consulting with the MOSALVY to determine which types of employment and working conditions constitute "light work." The MOSALVY identified six industries as priorities for clarification of what constitutes hazardous work and light work, but has not placed the subject on the agenda of the Labor Advisory Committee.

Children under the age of 15 years account for more than half of the population. Approximately 16.5 percent of children between the ages of 5 years and 17 years were employed. More than half of these children were over the age of 14 years, and 89 percent of them were engaged in small-scale agriculture. Only 4 percent of working children were engaged in larger scale enterprises, including brick factories and rubber plantations.

Child labor was not prevalent in the garment industry, although there was at least one instance early in the year of a young worker misrepresenting her age to gain employment in a garment factory. Lack of credible civil documents made it difficult to guard against this practice. Most garment factories have policies that set the age of employment above the legal minimum of 15 years. The most serious child labor problems were in the informal sector.

The MOSALVY was hampered by inadequate resources, staff, and training. Law enforcement agencies had authority to combat child prostitution, but did not do so in a sustained, consistent manner. Some observers noted that existing regulations do not address the problem of child labor in the informal sector adequately. With assistance from the ILO, MOSALVY established a child labor unit to investigate and combat child labor. In 1997 the Government, in conjunction with the ILO and NGOs, also approved a national action plan on child labor (see Section 6.f.). The Government has not ratified ILO Convention 182 on the elimination of the worst forms of child labor, and has not established a definition for worst forms of child labor.

The Ministry of Labor participated in one project to remove children from hazardous work in the salt, fishing, and rubber industries and to provide them with education.

The Constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry. In 1999 the ILO's International Program for the Elimination of Child Labor (ILO-IPEC) reported that more than 15 percent of prostitutes were between 9 and 15 years of age (see Section 6.f.).

### Acceptable Conditions of Work

The Labor Law requires the MOSALVY to establish minimum wages based on recommendations from the Labor Advisory Committee. By law the minimum wage can vary regionally. In July 2000, the Labor Advisory Committee approved a minimum wage of \$45 (175,500 riel) per month, but this covered only the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.

According to a survey taken in 2001 by a local economics research center, garment workers, earned an average of \$61 (232,761 riel) per month, including overtime. However, prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday. The Government does not enforce these standards effectively. Despite reminders from the Government concerning hours of work, workers in many garment

factories complained that overtime was excessive or involuntary, or that they were required to work 7 days per week. Some factories did not pay the legally mandated premiums for overtime, night, or holiday work properly. Another common complaint was that management violated the law by paying the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked. Outside the garment industry, regulations on working hours rarely were enforced.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers' well being. The Government enforced existing standards inconsistently, in part because it lacked trained staff and equipment. Work related injury and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in most small scale factories and cottage industries were poor and often did not meet international standards. The Government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

The Labor Law applies to all local and foreign workers. A Ministry of Labor regulation, however, limits to 10 percent the number of foreign workers an employer can hire.

#### Trafficking in Persons

The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The Law on the Suppression of Kidnaping, Trafficking, and Exploitation of Humans (The Trafficking Law) establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under 15 years of age. The current trafficking law contains no provisions that would protect victims from charges under the country's immigration laws and enforcing the Trafficking Law in general was a problem.

The majority of trafficking occurred within the country, providing both adults and children for exploitation in the country's sex industry. The sex industry was estimated to employ 50,000 prostitutes, a sizable proportion of whom were victims of trafficking. The International Organization for Migration (IOM) estimated that at least 3,000 women and girls from southern Vietnam were trafficked to the country to work as prostitutes, with more than 15 percent being younger than 15 years of age. The ILO-IPEC reported in 1999 that more than 15 percent of female prostitutes in the country were between 9 and 15 years of age, and that 78 percent of these girls were Vietnamese and 22 percent were Cambodians. Women were trafficked from European countries such as Moldova and Romania, as well, for purposes of prostitution. A UNICEF study reported that one-third of the country's prostitutes were under 18 years of age. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries. One NGO estimated that 30,000 women and girls were trafficked to neighboring countries, especially Thailand. Women and children, especially those in rural areas, were the most likely to become victims of trafficking. One study estimated that 88,000 Cambodians worked in Thailand as bonded laborers at any given time; many were exploited in the sex industry or, particularly young boys and girls, were employed as beggars. There was also trafficking of boys and girls to Vietnam for begging.

The Trafficking Law establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under the age of 15; however, the Government did not enforce the law effectively due in part to budget limitations and a lack of implementing regulations.

Although prosecutions of traffickers increased, and the Government devoted greater attention to trafficking in persons during the year, enforcement of antitrafficking laws and prosecution of perpetrators continued to be inconsistent. The Government conducted several raids throughout the year, and rescued numerous prostitutes, including underage workers, and provided them with protection while working with NGOs to either reunite the victims with their families or to place them in a shelter operated by an NGO or other private charity.

In May, 14 Vietnamese trafficking victims were rescued by the Ministry of Interior's special anti-trafficking police unit from three brothels in Phnom Penh's Svay Pak community, an area notorious for underage prostitution, and were taken to a shelter operated by a local NGO. Police briefly detained one brothel manager and an alleged foreign pedophile during the May raids, but both escaped. On June 20, the same police unit that conducted the raids was ordered to arrest all 14 girls on charges of illegal immigration. On June 24, a judge released the three youngest girls who were between the ages of 12 and 13, as well as one other girl who demonstrated her Cambodian citizenship. At the time of the arrests, government officials said that the individuals being held were voluntary prostitutes and the arrests were a legal immigration issue. In August six of the girls were sentenced to 2 months in prison and four others were sentenced to 3 months in prison. After serving their sentences, the 10 girls were held at the country's immigration detention center. Credible sources report that the 10 girls never were deported, but that they were released back into society in exchange for payments to immigration authorities. However, there was no confirmation that traffickers paid off immigration officials. Credible reports suggested that in some cases the girls paid \$20 (78,000 riel) themselves, and in other cases supposed family members paid the fee.

On August 7, the Ministry of Interior's special police unit rescued another 17 Vietnamese girls from brothels in Svay Pak. The police arrested two of the brothel owners on charges of illegal confinement. Approximately half of the girls were under the age of 15 and the other half were between the ages of 16 and 20. The girls were placed in a local NGO shelter. However, a police

officer from the anti-trafficking unit later signed out one of the girls from the shelter and allegedly turned her over to her parents in return for a payment of \$100 (390,000 riel).

These cases sparked widespread condemnation from international organizations, NGOs, and other governments. Subsequently senior officials declared that government policy was not to consider trafficking victims as criminals; however, some courts did not abide by this approach. In addition, Vietnamese authorities apparently were reluctant to cooperate with Cambodian authorities in accepting back Vietnamese trafficking victims. The Government actively negotiated with the governments of Thailand and Vietnam to establish Memoranda of Understanding on the repatriation of women and children who were victims of trafficking.

The Ministry of Interior's anti-trafficking unit reported that during the year it rescued 193 victims, placed 127 of the victims in shelters and vocational training centers, and returned 66 victims to their families. The unit also submitted 53 cases for prosecution and 41 perpetrators (traffickers, pedophiles and rapists) were sentenced to prison, including 8 Cambodians, 28 Vietnamese, 3 Chinese, 1 Italian, and 1 Australian.

Working with IOM, the Government rescued 73 Cambodian forced laborers from Thai fishing vessels who were arrested by the Indonesian navy in July 2001.

Surveys conducted by domestic NGOs in 1995 indicated that from 40 to 50 percent of young women who were trafficked were victimized by a relative or friend of the family, and were offered money or promises of a better life. Poverty and ignorance in villages was a major factor in contributing to the trafficking problem. Young children, the majority of them girls, often were "pledged" as collateral for loans by desperately poor parents to brokers or middlemen; the child then was held responsible for repaying the loan and accumulated interest. In other cases, parents were tricked into believing the child would be given legitimate work in the city. There was also a problem with the illegal purchase and sale of infants and children. Sometimes this was for the purpose of adoption, including by foreign couples, but some of these children ended up abused and exploited (see Section 5).

Given the lucrative nature of trafficking in persons and the widespread nature of the problem in the country, it was believed that organized crime groups, employment agencies, and marriage brokers all had some degree of involvement. In one area on the Thai border, a recent report estimated that as many as 100 traffickers were carrying out operations. A local NGO revealed clear patterns and networks in the process of buying babies or children for the purposes of adoption and trafficking. Recruiters preyed on poor women, especially divorcees or widows, who were pregnant and about to give birth, or who had young children. Official paperwork was signed by orphanage directors and local officials who falsely stated that the children were found abandoned in provinces outside of Phnom Penh. Many times these officials were bribed. A variety of methods were used by traffickers. In many cases, victims were led astray by promises of legitimate employment. In other cases, acquaintances, friends and even family members sold the victims outright or received payment for having helped deceive them.

Corruption was endemic in the country, and it was believed widely that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. There were credible reports that high ranking government officials or their family members operated, had a stake in, or received protection money from brothels which housed trafficking victims, including underage sex workers.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases, victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

The Government had several programs underway in conjunction with the IOM, the UNHCHR, and UNICEF to combat trafficking, including one program to provide training and capacity-building for government officials with antitrafficking responsibilities. In September 2000, the Ministry of Women's and Veterans' Affairs launched a public education campaign against trafficking, focusing on border provinces. A number of local NGOs and international organizations investigated trafficking cases, provided assistance to victims, conducted research and advocacy on trafficking and human rights issues in general, and provided human rights education to members of the authorities and general public.

In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (see Section 5). In October 2001, a national workshop assessed the national plan's progress and priorities for action. In October 2002, the Government established mechanisms for monitoring and reporting on the national plan with all relevant ministries and provincial authorities.

Assistance was available for trafficking victims through projects run by local NGOs and international organizations. The Government participated as a partner in a number of these efforts, however, its contributions were hampered severely by the limited resources at its disposal. Some victims were encouraged by NGOs and the Ministry of Interior to file complaints against perpetrators. However, in the general climate of impunity, victim protection was problematic and victims often were intimidated into abandoning their cases. Trafficking victims, especially those who were exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.